

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 29, 2009

TO: Honorable Patrick M. Rose, Chair, House Committee on Human Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3112 by Hartnett (Relating to determining the need for guardianship.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3112, As Introduced: a negative impact of (\$4,282,822) through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	(\$2,152,809)
2011	(\$2,130,013)
2012	(\$2,130,013)
2013	(\$2,130,013)
2014	(\$2,130,013)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1
2010	(\$2,152,809)
2011	(\$2,130,013)
2012	(\$2,130,013)
2013	(\$2,130,013)
2014	(\$2,130,013)

Fiscal Year	Change in Number of State Employees from FY 2009
2010	25.0
2011	25.0
2012	25.0
2013	25.0
2014	25.0

Fiscal Analysis

The bill would amend Human Resources Code Section 161.101(b) and (c) and add section (d) and amend Human Resources Code Section 48.209 by adding Section (b). The bill would require the

Department of Aging and Disability Services (DADS) to use, in conducting an assessment of an elderly or disabled person to determine whether a guardianship is appropriate, a certificate of medical examination (CME) required to be provided by the Department of Family and Protective Services – Adult Protective Services (DFPS-APS) that complies with Probate Code Section 687(a). Provisions of the bill would require DADS to determine if a guardianship is appropriate within 30 days or if there are less restrictive alternatives to guardianship. If guardianship would be appropriate, DADS would be required to file the application within the same 30 day period.

Methodology

DADS indicated that under current statute, the assessment process averages about 30 days before a determination whether or not to file for guardianship is made. DADS assumed, pursuant to provisions of the bill, that the assessment and the filing of the legal documents for appointment of a guardian (if appropriate) would need to occur within the 30-day period beginning on the day DFPS-APS referral is made to DADS. DADS said that requirement would have the effect of compressing a 60- to 90-day process into 30 days. DADS estimated that to process the current caseload assessments in a 30-day period, 13 additional Guardianship Specialists would be needed in the regions. If guardianship is appropriate, the legal documents requesting the appointment would need to be prepared, reviewed and filed within the 30-day period. DADS estimated that it would require six additional attorneys, five additional legal assistants in the regions and one program specialist for the compressed schedule.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 530 Family and Protective Services, Department of, 539 Aging and Disability Services, Department of

LBB Staff: JOB, CL, ML, LR